

# Exhibit 1



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2596 South Lewis Way | Lakewood, CO 80227 | Tel:  
303.292.2021

December 5, 2023

State of Oregon  
Department of Administrative Services  
Risk Management  
Attn: Notice of Claim Unit  
PO Box 12009  
Salem, Oregon 97309-0009  
[REDACTED]

(Via Certified Mail & E-mail)

**Re: *Danielle Johnson v. State of Oregon Department of Environmental Quality***

To Whom It May Concern:

Please be advised that the undersigned attorneys represent Ms. Danielle Johnson with respect to discrimination, retaliation, defamation, and a hostile work environment that she has suffered during her employment by the State of Oregon Department of Environmental Quality ("DEQ").

Ms. Johnson is employed by DEQ as a Land Quality Contract Officer. Her employment commenced in or around October 2018, and continues to this day. Ms. Johnson is highly qualified, and her work has been exemplary, as reflected in her consistently-stellar performance reviews. In recognition of her outstanding work, Ms. Johnson was previously assigned to serve as Lead Worker for Land Quality Headquarters Cleanup, a role with significant additional responsibilities and increased pay, as compared to her prior postings.

DEQ has discriminated against Ms. Johnson by creating a hostile work environment on the basis of race. Through training materials, presentations, and official communications, DEQ has sent the unmistakable message that individuals belonging to Ms. Johnson's perceived race (DEQ presumes that Ms. Johnson is white) have many negative traits, solely by virtue of their race. This conduct is amplified by the fact that all of Ms. Johnson's colleagues are employed in the same environment, and thus some of them think of Ms. Johnson as white

and treat Ms. Johnson differently based on her perceived race. This has caused Ms. Johnson severe distress and anguish, which is so severe and pervasive that it has altered the terms and conditions of Ms. Johnson's employment. DEQ's conduct has been ongoing during the entire course of Ms. Johnson's employment. For example, Ms. Johnson has been periodically required to review training materials that denigrate individuals on the basis of their race and has regularly received emails advancing official DEQ opinions (invariably negative) about alleged "white . . . culture" and "whiteness" approximately once or twice a month over the last two to three years.

Not only is DEQ's conduct ongoing, but it has continued to intensify, up to and including the present day. For example, in or around June 2023, a consultant hired by DEQ to facilitate DEQ's "diversity, equity and inclusion" and other policies produced a report detailing numerous DEQ policies that are aimed at advancing the hiring, promotion, and retention of non-white applicants and employees based on their membership in preferred racial categories, and limiting the hiring, promotion, and retention of white applicants and employees based on their membership in disfavored racial categories. The report further trafficked in numerous racial stereotypes (for example, decrying the "fifteen characteristics of 'whiteness,'" that purportedly represent the racism and feelings of "white supremacy" inherent to all persons falling into the racial group of "whites"), ascribed moral failure to individuals based on their race, and repeated many racially derogatory opinions presented as undeniable facts. These kinds of statements are by no means limited to the report, but appear again and again in DEQ training materials, official e-mail communications, and workplace flyers and visual aids required to be reviewed, understood, and absorbed by Ms. Johnson and other employees. By entrenching invidious racial stereotypes in a manner that leaves no doubt whatsoever that individuals of Ms. Johnson's perceived race are disfavored, DEQ has created a hostile work environment.

Separately, DEQ has unlawfully retaliated against Ms. Johnson for voicing opposition to and blowing the whistle on DEQ's hostile work environment, as well as its broader discriminatory hiring, promotion and other human resources policies. Among other instances of whistleblowing: during a meeting with more than 150 employees in July 2023, Ms. Johnson indicated that DEQ's policies were likely unlawful under antidiscrimination laws. For this and other protected acts, DEQ retaliated against Ms. Johnson by demoting her, cutting her pay, subjecting her to a sham investigation, and defaming her in company-wide communications, all in or around July 2023. DEQ's retaliation continues—Ms. Johnson has not been restored to her previous role or pay, and the "investigation" is ongoing—and its effects, including in the loss of reputation and earning opportunities, will be felt for years to come.

ORS § 30.275 provides that "[n]o action arising from any act or omission of a public body or an officer, employee or agent of a public body within the scope of ORS

30.260 to 30.300 shall be maintained unless notice of claim is given as required by this section.” Pursuant to ORS 30.275, this letter constitutes formal notice that Ms. Johnson intends to file a civil action for monetary damages and injunctive relief against DEQ and employees and staff of DEQ.<sup>1</sup> The potential claims that Ms. Johnson may assert include, but are not limited to: race, color, and national origin discrimination; hostile work environment; retaliation; violations of constitutional guarantees to equal protection and free speech; violations of whistleblower protection laws; and defamation. Ms. Johnson’s claims arise under both federal and state law, including federal and state statutory and constitutional law.

This matter is still under investigation by our offices, and additional investigation may yield additional facts and claims that are not reasonably known to us at the time of this writing. Accordingly, Ms. Johnson’s potential claims are not limited to the claims listed in this notice. The above facts and claims are intended to be construed as broadly as possible. This notice is intended to encompass all possible claims and to give notice that Ms. Johnson intends to file a civil action.

To the extent that you wish to resolve Ms. Johnson’s claims before litigation ensues, you may contact me using the information below my signature. Any written correspondence regarding this matter should be directed to James Kerwin, Mountain States Legal Foundation, 2596 S. Lewis Way, Lakewood, CO 80227.

Best regards,

/s/ James Kerwin

James Kerwin, Senior Counsel  
William E. Trachman, General  
Counsel

MOUNTAIN STATES LEGAL FOUNDATION  
2596 S. Lewis Way  
Lakewood, CO 80227  


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<sup>1</sup> Pursuant to ORS §§ 30.275(3)(b) and (6), formal notice of claim is not required where a person responsible for administering tort claims on behalf of a public body has actual knowledge of the “time, place and circumstances giving rise to the claim, where the communication is such that a reasonable person would conclude that a particular person intends to assert a claim against the public body or [] officer.” As Ms. Johnson has previously filed numerous claims of discrimination with the Oregon Department of Administrative Services detailing a substantial number of the facts underlying the instant notice, the requirements of ORS §§ 30.275(3)(b) and (6) have already been satisfied. (See, Dep’t of Admin. Servs. Complaint Form submitted by D. Johnson on or around October 14, 2022 & Dep’t of Admin. Servs. Complaint Form submitted by D. Johnson on or around August 8, 2023). Nevertheless, out of a surfeit of caution, Ms. Johnson is also filing this formal notice of claim.

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